

1970

c 286 Municipal Arbitrations Act

Ontario

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Bibliographic Citation

Municipal Arbitrations Act, RSO 1970, c 286

Repository Citation

Ontario (1970) "c 286 Municipal Arbitrations Act," *Ontario: Revised Statutes*: Vol. 1970: Iss. 3, Article 47.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1970/iss3/47>

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CHAPTER 286

The Municipal Arbitrations Act

1.—(1) An official referee may be appointed by the Lieutenant Governor in Council for any municipality to which this Act applies and he shall be the “Official Arbitrator” for the municipality for which he is appointed.

Appoint-
ment of
Official
Arbitrator
for specific
municipality

(2) The Official Arbitrator shall,

Powers, etc.,
of Official
Arbitrator
qualification

(a) be a judge of a county court or a barrister of at least ten years standing at the bar of Ontario;

(b) have all the powers of an official referee under *The Judicature Act* and of an arbitrator under *The Municipal Act* or under *The Arbitrations Act*;

powers
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25

(c) be an officer of the Supreme Court;

status

(d) not act as solicitor or counsel for or against the corporation or for any other municipal corporation;

disability

(e) have all the powers of a judge of the Supreme Court including those relating to the production of books and papers, the amendment of notices for compensation or damage and of all other notices and proceedings, the rectification of errors or omissions, the time and place of taking examinations and views, the assistance of valuers, appraisers, engineers, surveyors or other experts, and as respects all matters incident to the hearing and determination of matters before him or proper for doing complete justice therein between the parties, including the power of awarding costs. R.S.O. 1960, c. 250, s. 1 (2, 3); 1965, c. 78, s. 1, *part*.

other
powers

(3) Where there is an Official Arbitrator for a municipality to which this Act applies, all claims against the municipality or against such municipality and an adjoining municipality and all questions arising under any lease or contract to which the municipality is a party and which by by-law or the terms of the lease or contract are to be determined by arbitration shall be heard and determined by the Official Arbitrator.

Claims
against
municipality
having
Official
Arbitrator

(4) Where a claim is against a municipality and an adjoining municipality, each of which has an Official Arbitrator, neither municipality shall be deemed to have an Official Arbitrator. 1965, c. 78, s. 1, *part, amended*.

Claims
against two
municipalities
having
Official
Arbitrators

Vacancy

2.—(1) The death of the Official Arbitrator or his ceasing to hold office from any cause pending a reference before him, before his award is made, does not abate the proceedings, but such reference shall be continued and all proceedings therein already taken shall be adopted, and an award made therein by his successor in office.

Deputy
Official
Arbitrator

(2) The Lieutenant Governor in Council may appoint a Deputy Official Arbitrator and, in case of the illness or absence or inability to act of the Official Arbitrator and during a vacancy in the office, the Deputy Official Arbitrator has all the powers and shall perform all the duties of the Official Arbitrator. R.S.O. 1960, c. 250, s. 2 (1, 2).

Deputy
Official
Arbitrator
for specific
municipality

(3) Where an Official Arbitrator has been appointed for a municipality under subsection 1 of section 1, a Deputy Official Arbitrator may be appointed for such municipality and he shall be the "Deputy Official Arbitrator" for the municipality for which he is appointed. R.S.O. 1960, c. 250, s. 2 (3); 1965, c. 78, s. 2.

Death of
claimant

(4) The death of the claimant pending a reference before the Official Arbitrator does not abate or determine the proceedings already taken before him, but such proceedings already taken may be continued by or against the legal representatives of the deceased, or by or against the person or persons upon whom the estate or interests of the deceased devolves. R.S.O. 1960, c. 250, s. 2 (4).

Commence-
ment of pro-
ceedings

3. If any person interested in any such claim or question desires that it should be determined by the Official Arbitrator, he shall give to the clerk of the municipality and to every other person interested seven clear days notice that it is so referred, specifying therein the nature of the claim or question to be determined, and the amount in controversy, and upon such notice, with proof of the service of it, being filed with him, the Official Arbitrator may proceed to hear and determine the matters so referred to him. R.S.O. 1960, c. 250, s. 3.

When
Official
Arbitrator
to state
reasons in
writing

4. Where the Official Arbitrator proceeds partly on view or upon any special knowledge or skill possessed by himself he shall put in writing as part of his reasons a statement of such matter sufficiently full to allow the Court of Appeal to determine the weight that should be attached to it. R.S.O. 1960, c. 250, s. 4.

Filing
award and
evidence

5. The award of the Official Arbitrator and exhibits and the reasons for his decision shall be filed in the office of the registrar of the Court of Appeal, and notice of the filing shall be given forthwith by the Official Arbitrator to the parties who appeared or were represented upon the reference or to their solicitors, and upon the request of any of the parties interested in the inquiry,

the notes taken by the shorthand writer, if any, shall be extended by him and, upon payment of his proper fees therefor, shall be filed with the registrar. R.S.O. 1960, c. 250, s. 5.

6. The award when so filed shall not be made public until all the fees payable to the Official Arbitrator have been paid to him. R.S.O. 1960, c. 250, s. 6.

Fees to be paid before award made public

7. The award may be appealed against to the Court of Appeal in the same manner as the decision of a judge of the Supreme Court sitting in court is appealed from, and is binding and conclusive upon all parties to the reference unless appealed from within six weeks after notice that it has been filed. R.S.O. 1960, c. 250, s. 7, *amended*.

Appeal to Court of Appeal

8. The time of any vacation of the Supreme Court shall not be reckoned in the computation of the time for doing any act or taking any proceeding in relation to the appeal. R.S.O. 1960, c. 250, s. 8.

Vacation

9. Where no appeal is taken within the prescribed time or when an appeal has been disposed of, the exhibits may be delivered out to the parties entitled to them. R.S.O. 1960, c. 250, s. 9.

Giving out exhibits when no appeal

10. Where an action has been brought or is pending, the court or a judge thereof, if of opinion that the relief sought is properly the subject of a proceeding under this Act, on the application of either party or otherwise, may at any stage of the action order it to be transferred to the Official Arbitrator on such terms as to costs and otherwise as may be considered proper, and the Official Arbitrator shall thereupon give such directions as to the prosecution of the claim before him as he may consider just and convenient, and subject to the provisions, if any, in respect thereto in the order of transfer, the costs of the action shall be in his discretion. R.S.O. 1960, c. 250, s. 10.

Transferring actions to Arbitrator

11. Costs awarded by the Official Arbitrator shall be taxed by one of the taxing officers of the Supreme Court, and shall be taxed upon such scale and be payable to such parties as may be determined by the Official Arbitrator. R.S.O. 1960, c. 250, s. 11.

How costs to be taxed

12.—(1) One-half of the fees and expenses of the Official Arbitrator is payable by each of the parties to the reference if only two parties are interested, and proportionately by all parties interested if a larger number than two are so interested; but the Official Arbitrator has power to award that any sum so paid or payable may be recoverable by any one or more of the parties from any other or others of them, and such fees and expenses are recoverable as any other costs of the arbitration.

By whom payable

Recovery of
fees

(2) If the award is not taken up within thirty days after service upon the parties of the notice of filing thereof, the fees and expenses of the Official Arbitrator are recoverable by action from any one or more of the parties to the arbitration.

Idem

(3) Nothing herein prejudicially affects the right of the Official Arbitrator to recover his fees or expenses in any way in which they may now be recovered. R.S.O. 1960, c.250, s. 12.

Power to
make rules
and tariff

13. Subject to the approval of the Lieutenant Governor in Council, the Rules Committee has the same power to make rules with respect to matters and proceedings under this Act and tariffs of fees as it has in respect of proceedings under *The Judicature Act*. R.S.O. 1960, c. 250, s. 14.

R.S.O. 1970,
c. 228

Application
of Act

14.—(1) This Act extends and applies to cities having a population of not less than 100,000, to The Municipality of Metropolitan Toronto, The Regional Municipality of York and to the Borough of York, and to any municipality the council of which by by-law declares that it is desirable that the municipality be brought within the provisions of this Act, and in such case this Act shall be read as though it had been expressly applied to such municipality by the terms thereof. R.S.O. 1960, c. 250, s. 15 (1); 1965, c. 78, s. 4, *amended*.

Repeal of
by-law
bringing Act
into force

(2) The council of a municipality that has passed a by-law under subsection 1 may repeal it at any time after the expiration of six months from the passing of the by-law, and upon such repeal this Act ceases to apply or be in force in the municipality. R.S.O. 1960, c. 250, s. 15 (2).
